

COMMONWEALTH OF PENNSYLVANIA.

DEPARTMENT OF AGRICULTURE.

BULLETIN No. 32.

PURE FOOD AND DAIRY LAWS
OF
PENNSYLVANIA.

LEVI WELLS,
DAIRY AND FOOD COMMISSIONER.



PUBLISHED BY DIRECTION OF THE SECRETARY.

WM. STANLEY RAY,
STATE PRINTER OF PENNSYLVANIA.
1898.

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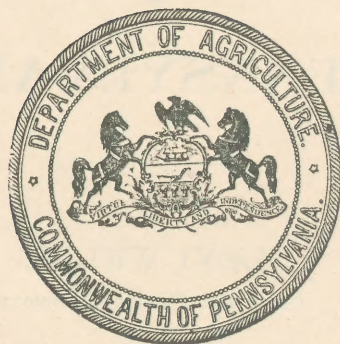
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LETTER OF TRANSMITTAL.

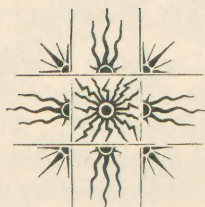
COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF AGRICULTURE,
OFFICE OF THE DAIRY AND FOOD COMMISSIONER,
HARRISBURG, PENN'A., JAN. 1, 1898.

Hon. THOMAS J. EDGE, Secretary of Agriculture, Harrisburg, Pa.:

Dear Sir: I respectfully beg leave to present the accompanying summary of the several acts of Assembly relating to the dairy and food legislation of this Commonwealth. I have also appended certain opinions of the courts, and such decisions as were rendered by this Bureau in connection with questions that were presented from time to time.

This bulletin has been prepared to meet the frequent and constant demand for information upon these subjects, believing that the same would more fully meet the wishes of correspondents and others than could be done in the ordinary routine of business correspondence.

Very respectfully,
LEVI WELLS,
Dairy and Food Commissioner.



AN ACT

For the protection of the public health, and to prevent adulteration of dairy products and fraud in the sale thereof.

Section 1. *Be it enacted, &c.*, That no person, firm or corporate body shall manufacture out of any oleaginous substance or any compound of the same, other than that produced from unadulterated milk or of cream from the same, any article designed to take the place of butter or cheese produced from pure unadulterated milk, or cream from the same, or of any imitation or adulterated butter or cheese, nor shall sell or offer for sale, or have in his, her or their possession with intent to sell the same as an article of food.

Section 2. Every sale of such article or substance, which is prohibited by the first section of this act, made after this act shall take effect, is hereby declared to be unlawful and void, and no action shall be maintained in any of the courts of this State to recover upon any contract for the sale of any such article or substance.

Section 3. (As amended by the act of June 26th, 1895.) Every person, firm or corporate body who shall manufacture, sell or offer or expose for sale, or have in his, her or their possession, with intent to sell, any substance, the manufacture and sale of which is prohibited by the first section of this act, shall, for every such offense, forfeit and pay the sum of one hundred dollars, which shall be recoverable with costs, by any person suing in the name of the Commonwealth, as debts of like amount are by law recoverable, one-half of which sum when so recovered shall be paid to the proper county treasurer for the use of the county in which the suit is brought, and the other half shall be paid to the Dairy and Food Commissioner, or his agent, and by him covered into the State Treasury, to be kept as a fund, separate and apart, for the use of the Department of Agriculture for the enforcement of this act, and to be drawn out upon warrants approved and signed by the Secretary of Agriculture and the Auditor General.

Section 4. Every person who violates the provisions of the first section of this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than one hundred dollars, nor more than three hundred, or by imprisonment in the county jail, for not less than ten nor more than thirty days, or both such fine and imprisonment for the first offense, and imprisonment for one year for every subsequent offense.

Section 5. It shall be the duty of the constables of the several cities, boroughs, wards or townships of this Commonwealth, to make quarterly reports under oath to the courts of quarter sessions of all vio-

lations of any of the provisions of this act which may come or be brought to their notice, and it shall be the duty of the judges of the said courts to see that the said returns are made regularly and faithfully.

Section 6. This act shall take effect on the first day of July, one thousand eight hundred and eighty-five.

Section 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved—The 21st day of May, A. D. 1885.

AN ACT

To prevent fraud in the sale of lard and providing penalties for the violation thereof.

Section 1. *Be it enacted, &c.,* That no manufacturer or other person shall sell, deliver, prepare, put up, expose or offer for sale any lard or any article intended for use as lard, which contains any ingredient but the pure fat of swine, in any tierce, tub, bucket, pail or other vessel or wrapper or under any label bearing the words, "pure," "refined," "family," or either of them alone, or in combination with other words, nor unless every vessel, wrapper or label in or under which the articles is sold or delivered or prepared, put up or exposed for sale, bears on the top or outside thereof, in letters not less than one-half inch in length and plainly exposed to view, the words, "COMPOUND LARD."

Section 2. Any person who violates any provision of this act shall be punished by a fine not exceeding fifty dollars for the first or one hundred dollars for any subsequent offense.

Section 3. This act shall take effect on the first day of October, one thousand, eight hundred and ninety-one.

Approved—June 8th, 1891.

AN ACT

To enlarge the powers of the State Board of Agriculture, to authorize the said Board to enforce the provisions of the act, entitled "An act for the protection of the public health, and to prevent adulteration of dairy products and fraud in the sale thereof," approved May twenty-one, Anno Domini one thousand eight hundred and eighty-five, and of other acts in relation to dairy products; to authorize the appointment of an agent of the said Board who shall be known as the "Dairy and Food Commissioner," and to define his duties and fix his compensation, being supplementary to an act entitled "An act to establish a State Board of Agriculture," approved May eighth, Anno Domini one thousand eight hundred and seventy-six.

Section 1. *Be it enacted, &c.,* That the State Board of Agriculture be and is hereby empowered and charged with the enforcement of the provisions of the act, entitled "An act for the protec-

tion of the public health, and to prevent the adulteration of dairy products and fraud in the sale thereof," approved May twenty-one, Anno Domini one thousand eight hundred and eighty-five, and with laws now enacted, or hereafter to be enacted, prohibiting or regulating the adulteration or imitation of butter, cheese or other dairy products.

Section 2. That for the purpose of securing the enforcement of the provisions of the said laws concerning dairy products, the president of the State Board of Agriculture be and hereby is authorized and empowered to appoint an agent of the said Board, who shall be known by the name and title of the "Dairy and Food Commissioner," who shall hold his office for the term of two years, or until his successor shall be duly appointed and qualified, and shall receive a salary of two thousand dollars per annum and his necessary expenses incurred in the discharge of his official duties under this act. The said agent shall be charged under the direction of the said Board with the execution and enforcement of all laws now enacted, or hereafter to be enacted, in relation to the adulteration or imitation of dairy products.

Section 3. That the said agent of the said Board, the said Dairy and Food Commissioner, is hereby authorized and empowered, subject to the approval of the said State Board of Agriculture, to appoint and fix the compensation of such assistants, agents, experts, chemists, detectives and counsel as may be deemed by him necessary for the proper discharge of the duties of his office, and for the discovery and prosecution of violations of the said laws: *Provided*, That the entire expenses of the said agent and of all his assistants, agents, experts, chemists, detectives and counsel (salaries included), shall not exceed the sum appropriated for the purposes of this act.

Section 4. That the said agent of the State Board of Agriculture and such assistants, agents, experts, chemists, detectives and counsel, as he shall duly authorize for the purpose, shall have full access, egress and ingress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans, used in the manufacture, transportation and sale of any dairy products, or of any adulteration or imitation thereof. They shall also have power and authority to open any package, can or vessel containing dairy products, or any adulteration or imitation thereof, which may be manufactured, sold or exposed for sale, in violation of any of the provisions of any act now enacted or which may be hereafter enacted in relation to dairy products, or the adulteration or imitation thereof, and they shall also have power to take from such package, can or vessel, samples for analysis.

Section 5. That all penalties and costs received by the said State Board of Agriculture for violations of the said act of May twenty-one, Anno Domini one thousand eight hundred and eighty-five, and

of other acts now enacted or hereafter to be enacted, prohibiting or regulating the adulteration or imitation of butter, cheese or other dairy products, shall be appropriated by the said board to the payment only of the necessary expenses incurred by the said Dairy and Food Commissioner and his assistants and agents in the investigation, discovery and prosecution of violations of the said act.

Section 6. That all charges, accounts and expenses of the said Commissioner, and of all the assistants, agents, experts, chemists, detectives and counsel employed by him, shall be paid by the Treasurer of the State in the same manner as other accounts and expenses of the said State Board of Agriculture are now paid as provided by law.

Section 7. That the said Commissioner shall make annual reports of his work and proceedings and shall report in detail the number and names of the assistants, agents, experts, chemists, detectives and counsel employed by him, with their expenses and disbursements, the number of prosecutions, the number of convictions and the penalties recovered in each case, which report shall be presented to the said State Board of Agriculture at its annual meeting.

Approved—The 26th day of May, A. D. 1893.

FROM AN ACT APPROVED MARCH 13, 1895.

“The Dairy and Food Commissioner, who shall have practical experience in the manufacture of dairy products, shall receive an annual salary of twenty-five hundred dollars per year. The Dairy and Food Commissioner shall, under the direction of the Secretary, perform the duties prescribed by an act approved May twenty-sixth, one thousand eight hundred and ninety-three.”

AN ACT

To prohibit the use of any adulteration or imitation of dairy products in any charitable or penal institution, being supplementary to an act, entitled “An act for the protection of the public health and to prevent adulteration of dairy products and fraud in the sale thereof,” approved May twenty-one, Anno Domini one thousand eight hundred and eighty-five.

Section 1. *Be it enacted, &c.*, That it shall not be lawful for any charitable or penal institution in the State of Pennsylvania to use, furnish to its inmates, any substance, the manufacture or sale of which is prohibited by section one of the act, entitled “An act for the protection of the public health and to prevent the adulteration of dairy products and fraud in the sale thereof,” approved May twenty-first, Anno Domini one thousand eight hundred and eighty-five.

Section 2. That any officer, agent, steward or other official of any such charitable or penal institution, who shall knowingly buy any substance the manufacture or sale of which is prohibited by section one of the said act of May twenty-one, Anno Domini one thousand eight hundred and eighty-five, for use in such charitable or penal institution, or who shall knowingly cause such substance to be used by the inmates of such charitable or penal institution, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding one thousand dollars, or imprisonment not exceeding two years for each offense, or either or both, at the discretion of the court.

Section 3. Every person who shall knowingly sell or offer for sale, to any officer, agent, steward or other official of any charitable or penal institution any substance, the manufacture or sale of which is prohibited by section one of the said act of May twenty-first, Anno Domini one thousand eight hundred and eighty-five, for use in such charitable or penal institution, shall be deemed guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one thousand dollars or by imprisonment not exceeding two years, or either or both, at the discretion of the court.

Approved—The 23d day of May, A. D. 1893.

AN ACT

To provide against the adulteration of food, and providing for the enforcement thereof.

Section 1. *Be it enacted, &c.*, That no person shall, within this State, manufacture for sale, offer for sale or sell any article of food which is adulterated within the meaning of this act.

Section 2. The term "food," as used herein, shall include all articles used for food or drink by man, whether simple, mixed or compound.

Section 3. An article shall be deemed to be adulterated within the meaning of this act,

(a) In the case of food: (1) If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its quality, strength or purity. (2) If any inferior or cheaper substance or substances have been substituted wholly or in part for it. (3) If any valuable or necessary constituent or ingredient has been wholly or in part abstracted from it. (4) If it is an imitation of or is sold under the name of another article. (5) If it consists wholly or in part of a diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not—or in case of milk, if it is the product of a diseased animal. (6) If it is colored, coated, polished or powdered, whereby damage or

inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is. (7) If it contains any added substance or ingredient which is poisonous or injurious to health: *Provided*, That the provisions of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients or articles of food, if each and every package sold or offered for sale be distinctly labeled as mixtures or compounds, and are not injurious to health.

Section 4. Every person manufacturing, offering or exposing for sale or delivering to a purchaser any article of food included in the provisions of this act, shall furnish to any person interested or demanding the same, who shall apply to him for the purpose and shall tender him the value of the same, a sample sufficient for the analysis of any such article of food which is in his possession.

Section 5. Whoever refuses to comply, upon demand, with the requirement of section four, and whoever violates any of the provisions of this act, shall be guilty of a misdemeanor, and upon conviction, shall be fined not exceeding one hundred nor less than fifty dollars, or imprisoned not exceeding ninety nor less than thirty days, or both, and any person found guilty of manufacturing, offering for sale or selling any adulterated article of food under the provisions of this act shall be adjudged to pay, in addition to the penalties herein provided for, all the necessary costs and expenses incurred in inspecting and analyzing such adulterated articles of which said person may have been found guilty of manufacturing, selling, or offering for sale: *Provided*, That all penalties and costs for the violation of the provisions of this act shall be paid to the Dairy and Food Commissioner, or his agent, and by him paid into the State Treasury, to be kept as a fund separate and apart for the use of the Department of Agriculture for the enforcement of this act, and to be drawn out upon warrant signed by the Secretary of Agriculture and the Auditor General.

Section 6. The agent of the Department of Agriculture, known as the Dairy and Food Commissioner, shall be charged with the enforcement of all the provisions of this act, and shall have the same power to enforce the provisions of this act that is given him to enforce the provisions of the act by which he receives his appointment.

Approved—June 26th, 1895.

AN ACT

To enlarge the duties of the State Food Commissioner, authorizing him to enforce all laws against the adulterations or impurities in vinegar, jellies, cider, evaporated apples and all apple products, and the unlawful labeling in the State of Pennsylvania.

Section 1. *Be it enacted, &c.*, That the State Dairy and Food Commissioner shall be charged with the enforcement of all laws against

fraud and adulteration or impurities in vinegar, jellies, cider, evaporated apples, and all apple products, and the unlawful labeling of the same in the State of Pennsylvania.

Section 2. It shall be the duty of said Dairy and Food Commissioner to inspect any article of vinegar, jellies, cider, evaporated apples or other apple products, made or offered for sale in the State of Pennsylvania as an article of food or drink, and to prosecute or cause to be prosecuted any person or persons, firm or firms, corporation or corporations, engaged in the manufacture or sale of any adulterated article of food or drink, or adulterated in violation of or contrary to any laws of the State of Pennsylvania now in force, or hereafter to be passed.

Section 3. That the said Food Commissioner and such assistants, agents, experts, chemists, detectives and counsel as he shall duly authorize for the purpose, shall have full access, egress, ingress to all places of business, factories, mills, buildings, carriages, cars, vessels and barrels, tanks and packages, of whatever kind, used in the manufacture and transportation and sale of any apple products, or of any adulteration or imitation thereof. They shall also have power and authority to open any package, barrel or vessel containing apple products, or any adulteration or imitation thereof, which may be manufactured, sold or exposed for sale in violation of any of the provisions of any act now enacted or which may be hereafter enacted, in relation to apple products, or the adulteration or imitation or unlawful labeling thereof; and they shall also have power to take from such packages, barrel or vessel, samples for an analysis, after tendering compensation for said samples thus taken.

Section 4. That all penalties and costs shall be received by the State Board of Agriculture for the violation of this act, and of other acts now enacted, or hereafter to be enacted, prohibiting or regulating the adulteration or imitation of any apple product, and shall be appropriated by the said Board to the payment only of the necessary expenses incurred by the said Dairy and Food Commissioner and his assistants and agents in the investigation, discovery and prosecution of violations of this act.

Section 5. That all charges, accounts and expenses of the said commissioner and all of the assistants, agents, experts, chemists, detectives and counsel employed by him in carrying out the provisions of this act shall be paid by the Treasurer of the State in the same manner as the other accounts and expenses of the said Board of Agriculture are now paid, as provided by law.

Section 6. That the said commissioner shall make an annual report of his work and proceedings, and shall report in detail, the number and names of his assistants, agents, experts, chemists, detectives and counsel employed by him in carrying out the provisions of this act, to-

gether with their expenses and disbursements, and be a part of his general report, not a separate one, to the said State Board of Agriculture, at its annual meeting.

Approved—July 5th, 1895.

AN ACT

To prohibit the adulteration or coloring of milk or cream by the addition of so-called preservatives or coloring matter, and to provide for the enforcement of the same.

Section 1. *Be it enacted, &c.,* That the sale or offering for sale of milk or cream for human consumption in this Commonwealth, to which has been added boracic acid salt, boracic acid, salicylic acid, salicylate of soda; or any other injurious compound or substance for artificially coloring the same, shall be a misdemeanor and punishable by a fine of not less than fifty nor more than one hundred dollars, or imprisonment not exceeding sixty days, or both, or either, at the discretion of the court.

Section 2. The agent of the Department of Agriculture, known as the Dairy and Food Commissioner, shall be charged with the enforcement of all the provisions of this act, and shall have all the power to enforce this act that is given him to enforce the provisions of the act by which he receives his appointment.

Section 3. All penalties and costs for the violation of the provisions of this act shall be paid to the Dairy and Food Commissioner or his agent, and by him into the State Treasury, to be kept as a fund, separate and apart, for the use of the Department of Agriculture for the enforcement of this act, and to be drawn out upon the warrant signed by the Secretary of Agriculture and the Auditor General.

Section 4. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved—The 10th day of June, A. D. 1897.

AN ACT

Providing for the regulation of the manufacture and sale of distilled and fermented vinegars, prescribing their standard, to prevent the adulteration of the same, providing for the enforcement thereof, and punishment for the violation of the same.

Section 1. *Be it enacted, &c.,* That from and after the passage of this act no person, firm or corporate body shall manufacture for sale, offer for sale, or expose for sale, sell or deliver, or have in his, her or their possession with intent to sell or deliver, any vinegar not in compliance with the provisions of this act. No vinegar shall be sold or

exposed for sale as apple or cider vinegar which is not the legitimate product of pure apple juice, or vinegar not made exclusively of said apple cider, or vinegar in which foreign substances, drugs or acids shall have been introduced as may appear upon proper test, and upon said test shall contain not less than an acidity of four per centum, and one and one-half per centum by weight of cider vinegar solids upon full evaporation at the temperature of boiling water; no vinegar shall be branded "fruit vinegar" unless the same be made wholly from grapes, apples or other fruits.

Section 2. All vinegar made by fermentation and oxidation, without the intervention of distillation, shall be branded "fermented vinegar," with the name of the fruit or substance from which the same is made. And all vinegar made wholly or in part from distilled liquor shall be branded "distilled vinegar," and all such distilled vinegar shall be free from coloring matter added before, during or after distillation, and from color other than that imparted to it by the process of distillation. And all fermented vinegar, not distilled, shall contain not less than one and one-half per centum by weight on full evaporation, (at the temperature of boiling water), of solids derived from the fruit or grain from which said vinegar is fermented. And all vinegar shall be made wholly from the fruit or grain from which it is represented to be made, and shall contain no foreign substance, and shall contain not less than four per centum by weight of absolute acetic acid: *Provided*, That this shall not be construed to prohibit the use of such an amount of spices as are necessary for flavoring, provided such spices do not color the vinegar.

Section 3. No person, firm or corporate body shall manufacture for sale, offer for sale, or have in his, her or their possession with intent to sell or expose for sale, any vinegar found upon proper test to contain any preparation of lead, copper, sulphuric or other mineral acid, or other ingredients injurious to health. And all packages containing vinegar shall be plainly and distinctly marked on each head of the cask, barrel or keg containing such vinegar, or if sold in other packages, each package shall be plainly and distinctly marked with the name and residence of the manufacturer, together with the brand required in section two thereof.

Section 4. Every person, firm or corporate body who shall violate any of the provisions of this act shall, for every such offense, forfeit and pay not less than fifty dollars nor more than one hundred dollars, which shall be recoverable, with costs, including expense of inspection and analysis, by any person suing in the name of the Commonwealth as debts of like amount are by law recoverable: *Provided*, That the Department of Agriculture, through its officer known as the Dairy and Food Commissioner, together with the deputies, agents and assistants, shall be charged with the enforcement of this act, and

shall have full access to all places of business, factories, mills, buildings, carriages, cars, vessels, barrels, tanks and packages of whatever kind used in the manufacture and transportation and sale of any vinegar, or of any adulteration or imitation thereof, or any package in which vinegar is mixed with articles of food. They shall also have power and authority to open any package, barrel or vessel containing any vinegar, or any adulteration or imitation thereof, which may be manufactured, sold or exposed for sale, and they shall also have full power and authority to take the samples therefrom for analysis upon tendering the value of said samples. And all charges, accounts and expenses of the Department for the enforcement of this act, through the said commissioner and his deputies, agents, assistants, chemist, and counsel employed by him, in carrying out the provisions of this act, shall be paid by the Treasurer of the State in the same manner as other accounts and expenses of the said Department are paid. And all penalties and costs for the violation of the provisions of this act shall be paid to the said Dairy and Food Commissioner, or his agents, and by him immediately covered into the State Treasury, to be kept as a fund for the use of the Department, and to be drawn out upon the warrant signed by the Secretary of Agriculture and the Auditor General.

Section 5. Every person who violates any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than fifty dollars, nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten nor more than thirty days, or both fine and imprisonment for the first offense, and a fine of one hundred dollars and imprisonment for thirty days for every subsequent offense: *Provided*, That all fines and costs, including the expense of inspection and analysis imposed under this section, shall be covered into the State Treasury as provided by section four of this act, and all vinegar sold or offered for sale in violation of the provisions of this act shall be subject to forfeitures and spoliation.

Section 6. Magistrates and justices of the peace throughout this Commonwealth shall have jurisdiction to hear and determine actions arising for violations of the provisions of this act, and to hold for court, or impose the penalties provided therein, subject to appeal as the law shall direct.

Section 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved—The 18th day of June, A. D. 1897.

AN ACT

To prevent fraud and deception in the manufacture and sale of cheese, and defining what shall constitute the various grades of cheese, providing rules and regulations for marking and branding the same, providing for the enforcement of this act, prescribing penalties for its violation.

Section 1. *Be it enacted, &c.*, That no person, firm or corporate body shall manufacture, sell, or offer for sale or have in his or their possession with intent to sell, any cheese not the legitimate product of pure, unadulterated milk or cream, or any cheese into which any foreign fats or substances have been introduced as may appear upon proper test.

Section 2. All cheese manufactured or sold within this Commonwealth shall be divided into five grades, and shall be branded or stenciled in ordinary bold-faced capital letters, not less than one inch in height, on two sides of each cheese, and upon the top and bottom of box or case containing the cheese, the manufacturer's name and postoffice address, and the words "FULL CREAM," "THREE-FOURTHS CREAM," "ONE-HALF CREAM," "ONE-FOURTH CREAM," and "SKIMMED CHEESE." All cheese branded "FULL CREAM," shall contain not less than thirty-two per centum of butter fat as may appear by proper test. All cheese branded "THREE-FOURTHS CREAM," shall contain not less than twenty-four per centum of butter fat as may appear by proper test. All cheese branded "ONE-HALF CREAM," shall contain not less than sixteen per centum of butter fat as may appear upon proper test. All cheese branded "ONE-FOURTH CREAM," shall contain not less than eight per centum of butter fat as may appear upon proper test. And all cheese containing less than eight per centum of butter fat, as may appear upon proper test, shall be branded "SKIMMED CHEESE."

Section 3. Every person, firm or corporation who shall violate any of the provisions of this act shall, for every such offense, forfeit and pay the sum of not less than fifty dollars, nor more than one hundred dollars, together with all charges and expenses for inspection and analysis connected therewith, by any person suing therefor in the name of the Commonwealth, as debts of like amount are by law recoverable; and justices of the peace and aldermen throughout this Commonwealth shall have jurisdiction to hear and determine all actions arising under the provisions of this act, and all cheese not in accordance with this act shall be subject to forfeiture and spoliation: *Provided*, That the Department of Agriculture, through its officer, known as the Dairy and Food Commissioner, together with his deputies, agents and assistants, shall be charged with the enforcement of the provisions of this act, and shall have authority to enter any building or factory where the same is sold or manufactured or exposed for sale, and shall have the right to take samples sufficient for

analysis, upon tendering the value thereof. All fines and penalties, including also all charges for inspection and analysis, shall be paid to the Dairy and Food Commissioner, his deputies, agents or assistants, and by him immediately covered into the State Treasury, and so much of said fund as may be necessary for the enforcement of this act shall be drawn out upon warrants signed by the Secretary of Agriculture and Auditor General: *Provided*, That the provisions of this act shall not be construed to apply to such cheese as is known as "fancy" cheese and is under five pounds in weight, each; or to what is known as cottage cheese or pot cheese, and do not contain anything injurious to health.

Section 4. This act shall take effect sixty days after its approval by the Governor of the Commonwealth.

Approved—The 23d day of June, A. D. 1897.

The Pure Food Law Sustained by the Superior Court of Pennsylvania.

Commonwealth	}	Appeal from the Quarter Sessions of Chester
vs.	}	county.
William C. Curry.	}	

Filed April 19, 1897.

ORLADY, J.,

“The defendant was convicted on an indictment framed under the act of June 26th, 1895, P. L. 317, in which it was charged that he “unlawfully then and there did sell and offer for sale, as and for, and in imitation of, and under the name of olive oil, used for food by man, a large quantity of a certain adulterated article and compound, the name and components of the said adulterated article and compound being to this grand inquest as yet unknown;” and in a second count “unlawfully did then and there sell and offer for sale as and for olive oil, used for food by man, a large quantity of a certain adulterated article and compound, then and there being an inferior and cheaper substance and compound substituted for olive oil, the name and components of said adulterated, inferior and cheaper substance and compound being to this grand inquest as yet unknown.”

The verdict was set aside and the defendant discharged by the court below; the reason given in an opinion filed was, “As there was no evidence of the sale of an adulterated article of food, but, at most an imposition or deception, the sale of one article under the name of another, and as the prohibition contained in clauses two and four of the third section are clearly not within the act as expressed in its title, and therefore unconstitutional, the verdict must be set aside and the defendant discharged.”

The defendant sold “cotton seed oil” in packages labeled and marked “olive oil,” and defends his conduct as lawful because the act of June 26th, 1895, known as the Pure Food Law, is misleading, in that the title does not invite an examination of the body of the bill, in which the offense charged is defined as an adulteration.

The learned judge in the opinion filed, says: “While the meaning of words depends upon popular usage, the Legislature has the right to prescribe legal definitions of its own language. But admitting this right, do not the legislative definitions quoted introduce into the body of the act entirely new and additional subjects, not clearly or

at all expressed in its title, and thus violate the third section of article three, of the Constitution? Both, it is true, relate to food, but the title of the act is not to regulate the manufacture and sale of food, but is restricted to food of a certain character, namely, adulterated food, which the article sold in this case was not." The last part of this statement begs the whole question, as by the act, it and all similar articles ("Second, If any inferior or cheaper substance or substances have been substituted wholly or in part for it." Fourth, "If it is an imitation of or is sold under the name of another article,") are declared and defined to be adulterations within the meaning of the act.

It is conceded that the Legislature has the right to prescribe the legal definitions of its own language. A construction put upon an act of the Legislature itself, by means of a provision embodied in the same, that it shall or shall not be construed in a certain designated manner, is binding upon the courts, although the latter, without such a direction, would have understood the language to mean something different. *Endlich on Statutes*, Section 365.

It is legislative language we are to construe, and it must be received, not necessarily according to its etymological meaning, but according to its popular acceptance, and especially in the sense in which the Legislature is accustomed to use the same words. *Phila. & Erie R. R. Co., vs. Catawissa R. R. Co.*, 53 Pa. 20.

The sense given to particular words by our great lexicographers is always entitled to weight, yet when a word is used in an act of Assembly, regard must be had to the circumstances surrounding its use. *Penna. R. R. Co. vs. Price*, 96 Pa. 256.

It is contended that the term "adulteration" is given a special definition by the act by which a new and additional subject is introduced, not clearly, or at all expressed in the title, in contravention of the third section of article three of the Constitution. "No bill except general appropriation bills, shall be passed containing more than one subject, which shall be clearly expressed in its title."

We are not required to resort to the technical meaning and derivations of words as given in dictionaries to determine the legislative meaning, when the words are defined by statute, and in this case it is not inconsistent with the common acceptance.

The definition given to the word "adulteration" in this statute is so intimate and natural a connection, so evident an adjunct of the subject, and is so closely associated with the word to which it refers that it cannot be held an independent or separate subject, but fairly gives notice of the legislative purpose through the title.

The term adulteration is derived from the Latin *adultero*, which in its various inflections signifies to defile, to debase, to corrupt, to sophisticate, to falsify, to counterfeit, etc. The objects of adulteration are four-fold, namely, to increase the bulk or weight of the arti-

cle, to improve its appearance, to give it a false strength, or to rob it of its most valuable constituents. All these adulterations are manifestly of a designedly fraudulent character, and therefore properly the subject of judicial inquiry. Vol. I, Enc. Brit., Am. reprint, 9th ed., p. 152. Title, Adulteration.

It was held in *Commonwealth vs. Moore*, 2 Pa. Superior Court R. 162, that an act, the title to which was, "An act for the protection of livery stable keepers," was constitutional, because the title fairly gives notice of the subject of the act, so as to reasonably lead to an inquiry into the provisions of the bill, which has repeatedly been held to be sufficient, as the title thus inducing examination, accomplishes all that a more elaborate statement would give notice of. *Millvale borough vs. Evergreen Ry. Co.*, 131 Pa. 1; *Keely vs. Mayberry Township*, 154 Pa. 440; and *Commonwealth vs. Lloyd*, 2 Pa. Superior Court R. 6, in which case "An act relating to the county Commissioners of Cambria county," was sustained, though the second section fixed the salary of each commissioner, and the third section authorized them to employ a clerk at a fixed salary; and on appeal to the Supreme Court, 178 Pa. 308, the judgment of the Superior Court was affirmed for the reasons given.

In *Commonwealth vs. Robert Muir*, 1 Pa. Superior Court 578, an act entitled "An act to regulate and license public lodging houses in the different cities of this Commonwealth," in which a "public lodging house" was specifically defined in limitation of the common meaning of the words, was held valid and constitutional, and on appeal to the Supreme Court, 180 Pa. 47, that tribunal says: "We have considered the provisions of the act, and are all of the opinion that the Superior Court was clearly right in holding that it is constitutional," though it contained subjects not technically covered by the title.

The title to this act, "To provide against the adulteration of food, and providing for the enforcement thereof," would naturally invite inspection by any one engaged in the manufacture or sale of food, and desirous of knowing what was to be avoided in the making and trafficking in the multiform food products of this day.

The attempt to defraud the public in selling cotton seed oil under the guise of a higher priced article of an entirely different name is one of the many similar acts which necessitated the Pure Food Law, and useful and honest legislation should not be defeated by too rigid an adherence to the letter of the Constitution, or pretexts be caught at to void legislation when it can be fairly reconciled within constitutional limits. It is a cardinal rule that all statutes are to be so construed as to sustain rather than ignore them; to give them operation if the language will permit, instead of treating them as meaningless and invalid. *Mauch Chunk vs. Magee*, 31 Pa. 433.

The title does not tend to mislead, as it invites examination by

the very words used, "To provide against adulteration of food, and providing for the enforcement thereof," which reasonably embraces every food product; the different classes, kinds, modes of manufacture; and as it was a proper subject for legislative action, all persons, whether manufacturers or dealers, are attracted by the words of the title to a critical examination into the provisions of the bill.

There has been a general disposition to construe the constitutional provision liberally, rather than to embarrass legislation by a construction whose strictness is unnecessary to the accomplishment of the beneficial purposes for which it has been adopted. *Cooley's Const. Lim.* 175.

In addition to the reasons herein given, we refer to *Commonwealth vs. Daniel D. Jones*, and *Commonwealth vs. Huffnal*, filed at this term, in which cases the same subject is discussed.

We do not agree with the reasoning of the learned judge below, and think the title to this act fairly gives notice of the provisions of the act, so as to reasonably lead to an inquiry into the bill.

The assignments of error are sustained. The decree of the court below is reversed, and record remitted for further proceedings thereon."

COMPOUND COFFEE.

OFFICE OF THE ATTORNEY GENERAL,
HARRISBURG, PA., January 29, 1896.

Hon. LEVI WELLS, Dairy and Food Commissioner:

Sir: Your communication of recent date, enclosing letter of Stephens & Widlar, of Cleveland, Ohio, asking whether certain labels submitted to your Department are sufficient to protect them in the sale of coffee as a compound, which contains chicory, rye, wheat, peas and other cereals or products, under the proviso to section 3 of the act of June 26th, A. D. 1895, (P. L. 317), has been received.

The question involved is one of great importance in the construction of the provisions of the Pure Food Law. As I am informed, the above named firm imports teas, coffees and spices, and, in order to make a cheaper grade of coffee, a certain amount of chicory, wheat, rye, peas, etc., is dried, browned and ground with pure coffee. The mixture thus prepared is sold on the market under a label, "Best Rio," "Prime Rio," "French Rio," or "Broken Java." It is earnestly contended that the proviso to section 3, of the act above referred to, gives them the right to sell such a mixture or compound without incurring the penalties of the law. Acting upon this idea, certain

labels containing the words "Coffee Compound," and showing that it is a mixture of prime coffee, English chicory and choice grain, are exhibited for the purpose of securing your approval so that this "Coffee Compound" may be sold in our State without interference from those in charge of the enforcement of this law.

I have no hesitancy in saying that, if such a preparation can be sold under the law as coffee, the label is sufficient under the proviso above named. But I am of opinion that the proviso does not cover an article of food known as "Coffee Compound," such as is intended to be sold by this firm, and that any manufacture for sale, offering for sale, or selling of the same as an article of food, would be in violation of the very letter and spirit of the act referred to.

Section 3 of the Pure Food Law defines what an adulteration is within the meaning of the act of Assembly. Any article of food shall be considered adulterated, "1. If any substance or substances have been mixed with it so as to lower or depreciate or injuriously affect its quality, strength or purity. 2. If any inferior or cheaper substance or substances have been substituted wholly or in part for it. 3. If any valuable or necessary constituents or ingredient has been wholly or in part abstracted from it." These are but three of the seven kinds of adulteration named in the act. Either one of these three definitions is sufficient to brand the "Coffee Compound," offered for sale by the above named firm, as an adulteration. The addition of chicory, wheat, rye, or peas to coffee depreciates its "quality, strength and purity." It is a substitution, in part, of a cheaper substance to take the place of coffee, and it could very properly be said that in such a compound a valuable constituent has been in part, abstracted, for part of the coffee is taken away, and a cereal substituted therefor. If the "quality, strength, or purity" of coffee can thus be depreciated under the authority of the proviso to section 3 of the above act, then is the Pure Food Law a legislative dream. If this cannot be done, then any adulterated article could be sold by simply marking it a compound or mixture. Allspice ground with buckwheat hulls, or cinnamon with hemlock bark, could then be labeled "compound" and sold in the open markets as such. Such a construction would render the act of 1895 a nullity.

The Pure Food Law was intended to provide against the adulteration of articles of food, and to prevent deception and fraud in the sale thereof. The legislation was much needed, and it should be enforced in such a way as to give the greatest security to the public consistent with the requirements of the act. It is true that the proviso to section 3, above mentioned, says that it "shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food." It is difficult to give any general definition of an "ordinary article of food," that would apply in all cases. It is, however, a fair presumption that no article of food, adulterated

within the meaning of the definition of section 3, is intended to be exempted by the proviso. The proviso is designed to cover a different class of cases. Any one relying upon the proviso to exempt him from the penalties of the law takes upon himself the laboring oar and the burden of proof is upon him to make out the exemption claimed. What is an "ordinary article of food," within the meaning of the proviso, must depend upon the facts in each particular case. I am clearly of opinion, however, that coffee, adulterated by the addition of chicory, wheat, rye or pea, is not an "ordinary article of food" intended to be exempted from the penalties of the law. On the other hand, it is an adulteration, and cannot be sold without offending against the provisions of the Pure Food Law.

I return herewith letter and labels submitted.

Very respectfully yours,

JNO. P. ELKIN,

Deputy Attorney General.

DEFINING THE CHEESE LAW.

OFFICE OF THE ATTORNEY GENERAL,

HARRISBURG, PA., Oct. 27, 1897.

Hon. THOMAS J. EDGE, Secretary of Board of Agriculture:

Sir: The answer to your request for an interpretation of the act of June 23, has been very much simplified by the presence of gentlemen representing the trade. From them it was learned that at least three-fourths of the cheese consumed in Pennsylvania is manufactured out of the State, and in many instances it is impossible to ascertain the name and address of the manufacturer thereof. A jobber in New York city, for instance, may buy cheese from any other State, or even from foreign lands, and it will be impossible for him, in all cases, to know where and by whom the product was manufactured, and it would be out of the question, in such case for the wholesale or retail dealer in Pennsylvania to obtain that information.

It is contended, however, that the act of June 23, 1897, (P. L. 202), requires the dealer to brand the cheese with the words "Full Cream," "Three-Fourths Cream," &c., according to the class to which it belongs, and also with the name and address of the manufacturer. This last requirement, as we have seen, is, in many instances, impossible of performance. The law does not require the performance of an impossibility. The whole purport of the act above named is doubtless to prevent the sale of any cheese not the legitimate product of pure, unadulterated milk or cream, and at the same time provide the means

of identifying the person who may be responsible for a violation of the act. Suppose it were possible to label every cheese manufactured out of the State with the name and address of the manufacturer, how could that aid in protecting the consumer? The manufacturer is beyond the jurisdiction of the authorities of this State, and no punishment can be inflicted on him in case of the violation of the provisions of the act of Assembly. It would seem to be more consonant with the purpose of the act to allow the dealer in such case to mark with his name and address as dealer all such cheese, as thereby he would himself indicate his personal responsibility in case of a violation of the law.

The act also provides that the brands on the cheese shall be in "bold-faced capital letters not less than one inch in height." The gentlemen who appeared before us showed very clearly that in some cases it would simply be impossible to comply with this provision of the law, inasmuch as many cheeses are too small to allow the amount of printing in the type as required by the act. In such cases the obvious thing to do would be to come as near as possible to the requirements of the law.

With these observations I therefore advise you as follows:

1. That, in case of cheese manufactured in Pennsylvania, you should require the same to be branded "Full Cream," "Three-Fourths Cream," etc., as the case may be, and with the name and address of the manufacturer thereof.

2. That in case of small cheeses, you should require the words "Full Cream," "Three-Fourths Cream," etc., to be printed in large letters and allow the name and address in smaller type, which, however, should be clear and plain, and which ought not to be less than one-half inch in height in any instance.

3. In the case of cheese manufactured out of the State, it would be a sufficient compliance with the Act of Assembly above named, if the dealer would brand the same in the manner indicated, with his name as dealer thereon and with his address or place of business also thereon. I am fully convinced that in this way complete effect would be given to the act, and the interests of the consumers as well as the Commonwealth would be best protected.

Very respectfully,

WILBUR F. REEDER,
Deputy Attorney General.

COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF AGRICULTURE,
OFFICE OF DAIRY AND FOOD COMMISSIONER,
HARRISBURG, PA., JANUARY 1, 1898.

To Manufacturers and Dealers in Articles of Food and Others:

Gentlemen: Your attention is respectfully invited to the accompanying decisions which have been rendered by this Department for the guidance of those whom it may concern.

Very respectfully,

LEVI WELLS,
Dairy and Food Commissioner.

DECISIONS.

1. No fraudulent or worthless article can be mixed with, or substituted for standard goods, and sold under the label "Compound" or "Mixture." Only compounds or mixtures known as "ordinary articles or ingredients of articles of food" can be so sold.

2. In all cases goods sold as pure, must be pure, and not a compound, as in the case of flavoring extracts, dry mustard, etc. Vanilla extracts must be made from pure vanilla beans. Mixed extracts of vanilla and tonka should be labeled "Mixture" or "Compound." Ether flavors, if sold, should be labeled and sold as "Artificial Strawberry," "Artificial Pine-Apple" flavors, etc., as the case may be.

3. Nothing injurious to health should enter any food product.

4. Salicylic acid is prohibited as a preservative.

5. Coloring of various food products is not prohibited, provided the material used is not injurious, or used for the purpose of deception, and inferiority is not concealed.

6. In some instances, the question of the admissibility of any foreign substances hinges on the point of whether the substance is necessarily added to improve its value or quality, or fraudulently added, to increase the quantity and profits.

7. Only vinegar which is the legitimate product of pure apple juice, known as apple cider, can be sold as cider vinegar. It must contain not less than one and one-half per cent. of solids and four per cent.

acidity. Each head of the package must be branded with the name and address of the manufacturer, and date of manufacture. Distilled and malt vinegars, if sold true to name, and not artificially colored, are not prohibited.

8. Lard not wholly derived from the fat of swine, must be plainly branded "Compound Lard."

9. The addition of coloring matter or preservatives to milk is prohibited by law.

10. Preserves, jellies, crushed fruits, fruit juices, and whole fruits sold as pure, or not marked "Compound," must contain nothing but pure fruit and sugar.

11. Preserves, jellies, and similar articles that contain starch, glucose, etc., must be labeled "Compound," or "Mixture," and we would suggest that the formula also be stated. This, however, is at the option of the manufacturer.

12. The word "Compound" should be in a conspicuous place on the label, and so as to be prominent.

13. Spices do not admit of the addition of any foreign matter, and therefore cannot be sold as "Compounds," or placed upon the market in an adulterated condition.

14. Alum in pickles is not prohibited. It does not injuriously affect the same, but is added to improve the appearance and quality.

15. When coloring matter is used in canned vegetables, the package must be distinctly and plainly marked or labeled "Artificially colored."

16. No substance labeled "Substitute for Cream of Tartar," or with any similar label, can be lawfully sold, the same being in conflict with clause two, section three, of the Pure Food Law, viz: "If any inferior or cheaper substance or substances have been substituted wholly or in part for it," and clause four, same section, which reads, "If it is an imitation of, or sold under the name of another article."

17. Butter put upon the market that is produced by taking original packing stock and other butter and melting the same, so that the butter oil can be drawn off, mixed with skim milk and re churned, or if by any similar process there is produced what is commonly known as "*Boiled*" or "*Process*" butter, the same before being offered or exposed for sale, shall be plainly labeled RENOVATED BUTTER.

If sold in prints or rolls, this label shall be plainly printed in conspicuous letters on the wrappers. If packed in tubs, the brand shall be printed in one inch letters, on the top and sides of the tub.

If exposed for sale, uncovered, a placard containing the label shall be attached to the mass in a manner making it prominent and plain to the purchaser.



